

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26247  
Docket Number TD-25970

Robert W. McAllister, Referee

PARTIES TO DISPUTE: ( (American Train Dispatchers Association  
(Seaboard System Railroad

STATEMENT OF CLAIM: "Claim of the American Train Dispatchers Association that:

It is the position of this organization that Mr. C. D. Thornton be **compensated** for these five days lost time at rate applicable to that of trick train dispatcher, that his personal record be cleared of all charges and discipline assessed him and that he be compensated for all lost time from his trick train dispatcher position, travel time, automobile mileage allowance, meals and lodging expenses incurred by him in attending the investigation held at Tampa, Florida as directed by carrier's officers."

OPINION OF BOARD: On April 14, 1983, Extra L&N 3604 South collided with a Maintenance of Way motor car near Mile Post AR-801.5, Floral City, Florida. As a result of a formal Investigation held on April 26, 1983, Train Dispatcher C. D. Thornton, the Claimant, was found guilty of failing to comply with Operating Rules 789 and 754 and was issued a five (5) day suspension. The referred to Rules in pertinent part state:

"789. They will promptly take action to afford protection against any know" condition which may affect the safe operation of train and engines."

"754 (third paragraph): These lineups will include a list of all trains and engines other than yard engines and **hostling** movements that will be operated within the time and limits specified by the lineup. Trains on time will be so indicated, and if late, the last know" location and the actual or earliest departure time from that location will be give". The last know" location and the actual or earliest departure time of extra trains then en route and point from which, and time at which, extras will be dispatched within the specified time will be given. Any trains required to run at reduced speed will be so indicated by the lineup."

According to the Carrier, the Claimant, as the Train Dispatcher on duty, was responsible for the safe movement of trains in his territory. He is accused of giving a 10:00 A.M. figure on when Extra L&N 3604 should pass Dunnellon when, in fact, it passed Dunnellon at 9:44 A.M. The train crew was not notified to be on the lookout for the motor car which was being operated by Apprentice Foreman Stanberry who had been advised that their train would not leave Dunnellon prior to 10:00 A.M. The Organization asserts the 10:00 A.M. figure given Apprentice Foreman Stanberry was not intended to be "precise" nor was the figure intended to be a lineup. The Organization contends the fault does not lie solely with the Claimant.

This Board has reviewed the record, and we agree with the Carrier's contention that there can be no leeway in a lineup. If the information was not intended to be a lineup as asserted by the Organization, how can we ignore the fact that in receiving a request for information, the Claimant, with years of experience, should have known the Maintenance of Way Apprentice Foreman would act upon the information received? The Claimant is charged with the responsibility for safe movement of trains and equipment on his territory. Claims of culpability on the part of others do not act to alter his responsibility.

The evidence of record establishes that at a minimum, the Claimant was careless in the manner he handled the request for an update on the lineups. We find no basis to disturb the Carrier's determination to issue the Claimant a five (5) day suspension.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1987.